

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

RICHARD FARMER	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	No.: 13-6653
	:	
v.	:	
	:	
HYDE YOUR EYES OPTICAL INC.	:	
and	:	
PILDES OF 76 th STREET INC.	:	
and	:	
JAMAR OPTICAL INC.	:	
and	:	
DR. DANIEL PILDES, O.D.	:	
and	:	
JAY PAGIRSKY	:	
and	:	
DR. DAVID HYDE, O.D.	:	
	:	
Defendants.	:	

**PETITIONER'S MEMORANDUM IN SUPPORT OF
MOTION TO WITHDRAW AS COUNSEL**

The attorneys of the law firms of Karpf, Karpf & Cerutti, P.C. and Terc Law Office, P.C. (hereinafter, collectively, "Petitioner"), hereby respectfully move this Honorable Court to permit them to withdraw as counsel for Plaintiff Richard Farmer in the above-captioned matter, and in support thereof, state as follows:

I. Factual Basis Underlying Motion to Withdraw

1. The above-captioned matter was initiated in this Court for alleged violations of the FLSA and the NYLL. Plaintiff alleges he was terminated from Defendants due to his protected activity under the FLSA/NYLL and that he was not compensated for overtime.

2. The posture of the case is as follows: the current discovery deadline in this matter is May 12, 2014. The Parties have exchanged written discovery and attended mediation. No

depositions have been taken. The case is in a relatively early stage, and nearly 1.5 months remain in discovery.

3. Petitioner is completely unable to litigate this case any further. Plaintiff has treated Petitioner in a very demeaning, hostile and disrespectful manner. Petitioner does not believe there is any existing relationship that would allow litigation to proceed effectively.

4. Aside from a lack of cooperation and mistreatment Petitioner has received, Plaintiff also insists on a course of conduct that Petitioner finds unacceptable and repugnant.

II. Legal Basis Underlying Motion to Withdraw as Counsel

5. “New York’s Code of Professional Responsibility (the “Code”) establishes appropriate guidelines for the professional conduct of attorneys in the United States District Courts in this state.” *Ritchie v. Gano*, 2008 U.S. Dist. LEXIS 67770 at *8 (S.D.N.Y. 2008) (string citation omitted).

6. Petitioner seeks to withdraw from representation of Plaintiff based upon Professional Rules of Responsibility 1.16(b)(1), 1.16(c)(1), 1.16(c)(4), 1.16(c)(7) and 1.16(c)(12).

7. It is well established that the foregoing reasons, including when a client makes it unreasonably difficult to represent him, are bases for withdrawal of representation. “Rule[] 1.6(c)(7) ... provides that a lawyer ‘may’ withdraw as counsel when ‘the client fails to cooperate in the representation or otherwise renders the representation unreasonably difficult for the lawyer to carry out employment effectively....’” *Steele v. Bell*, 2012 U.S. Dist. LEXIS 180405 at *6-7 (S.D.N.Y. 2012). *See also Cantineri v. Carrere*, 106 A.D.3d 1475, 964 N.Y.S.2d 439 (4th Dep’t 2013) (“we conclude that plaintiff’s conduct rendered appellant’s representation of him

unreasonably difficult and thus good and sufficient cause exists for appellant to withdraw from that representation.”).

8. In accordance with to Local Civil Rule 1.4, Petitioner is not asserting a retaining or charging lien.

WHEREFORE, based on the foregoing Motion and attached Memorandum of Law, Petitioners respectfully request that this Honorable Court permit them to withdraw as counsel.

Respectfully submitted,

KARPF, KARPF & CERUTTI, P.C.

/s/ Adam C. Lease

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Dated: March 31, 2014

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	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that on this date I caused a true and correct copy of Plaintiff's Counsel's Motion to Withdraw Appearance, to Defendants' counsel below via electronic filing ***and by e-mail and certified, registered U.S. mail to Plaintiff, Richard Farmer.***

Paul P. Rooney, Esq.
1345 Avenue of the Americas
New York, NY 10105

- and -

Richard Farmer
144-30 Sanford Avenue, 6k
Flushing NY 11355

/s/ Adam C. Lease
Adam C. Lease (AL4731)

Date: March 31, 2014